

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

In re:

Case No. 09-43643

ROLAND HOWARD HARPER, and
DEBORAH LYNN HARPER,

Chapter 13

Judge Thomas J. Tucker

Debtors.

**ORDER DENYING, WITHOUT PREJUDICE, (1) DEBTOR DEBORAH HARPER'S
MOTION TO EXCUSE DEBTOR ROLAND HARPER'S OBLIGATION TO
COMPLETE HIS PERSONAL FINANCIAL MANAGEMENT COURSE, AND EXCUSE
FILING OF CORRESPONDING FORM 23 (DOCKET # 73); AND (2) DEBTOR
DEBORAH HARPER'S MOTION TO EXCUSE DEBTOR ROLAND HARPER'S
OBLIGATION TO COMPLETE A CERTIFICATION REGARDING DOMESTIC
SUPPORT OBLIGATION (DOCKET # 74)**

This case is before the Court on (1) Debtor Deborah Harper's motion entitled "Motion to Excuse Debtor Roland Harper's Obligation to Complete His Personal Financial Management Course, and Excuse Filing of Corresponding Form 23" (Docket # 73); and (2) Debtor Deborah Harper's motion entitled "Motion to Excuse Debtor Roland Harper's Obligation to Complete a Certification Regarding Domestic Support Obligation" (Docket # 74) (collectively, the "Motions"). The Motions each seek relief because Debtor Roland Harper died, at some unspecified time after confirmation of the Chapter 13 Plan, which occurred on May 6, 2009. On May 5, 2014, Debtor Deborah Harper filed Certifications of Non-Response, indicating that no one has filed an objection to the Motions (Docket ## 84, 85).

The Court must deny the Motions, because the Motions do not show that they were filed by anyone with standing to seek the relief requested. The Debtor Roland Harper died before the Motions were filed, so Debtor Roland Harper's attorney had no authority to file the Motions on behalf of Debtor Roland Harper. Only a personal representative duly appointed by the probate court under the laws of the State of Michigan may file a motion on behalf of a deceased debtor. *Cf.* Mich. Comp. Laws Ann. § 700.3103 (stating, in relevant part, that "[e]xcept as otherwise provided in article IV, to acquire the powers and undertake the duties and liabilities of a decedent's personal representative, a person must be appointed by the register or by court order, must qualify, and must be issued letters"); Mich. Comp. Laws Ann. § 700.3703(3) (stating that "[e]xcept as to a proceeding that does not survive the decedent's death, a personal representative of a decedent domiciled in this state at death has the same standing to sue and be sued in the courts of this state and the courts of another jurisdiction as the decedent had immediately prior to death"); *In re Hamilton*, 274 B.R. 266, 267 (W.D. Tex. 2001) (citing *In re Lucio*, 251 B.R. 705, 708-09 (Bankr. W.D. Tex. 2000)) ("[W]hen a debtor dies, the only person who can then appear on the debtor's behalf is the person so named as the official representative of the probate estate of the debtor.")

Accordingly,

IT IS ORDERED that the Motions (Docket ## 73, 74), are denied, without prejudice to the right of a duly appointed personal representative of the deceased Debtor to file motions seeking the same relief.

Signed on May 09, 2014

/s/ **Thomas J. Tucker**
Thomas J. Tucker
United States Bankruptcy Judge